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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,661	02/25/2005	Carsten Springhorn	10191/3611	2471
26646 7590 07/07/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
BALL, JOHN C				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
07/07/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/500,661

Applicant(s)

SPRINGHORN ET AL.

Examiner

J. CHRISTOPHER BALL

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 11-21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 02 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-85/86)
Paper No(s)/Mail Date 07/02/2004
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Summary

1. This is the initial Office Action based on the National Stage Application of SPRINGHORN et al. filed as a PCT application on October 22, 2002.
2. Claims 1-10 were cancelled in a preliminary amendment submitted to the Office on July 2, 2004, and claims 11-21 are currently pending and have been fully considered.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 11-13, 15, 17-19, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by IMAMURA et al. (US 6,338,782 B1).

Regarding claim 11, IMAMURA et al. discloses a gas sensor usable for measurement of an exhaust gas (Col. 1, lines 5-10), comprising: a measuring device configured to detect a physical property of the gas, in the form of a measurement gas chamber (Col. 4, lines 5-10); a heating device including a heater (50, Figure 4), which is electrically connected to a first heater supply lead (552, Figure 4) and a second heater supply lead (551, Figure 4); wherein the first heater supply lead is arranged in a plane of stratification between the second heater supply lead and the measuring device (10, Figure 4) and the first heater supply lead is at an at least constant electrical potential, in the form of "a low-voltage" (Col. 5, lines 60-61).

Regarding claim 12, IMAMURA et al. teaches an insulation layer, the first heater supply lead being insulated from the second supply lead by the first insulation layer (51, Figure 4); wherein the heater has a contact point (unnumbered oval, Figures 11-17) via which the heater is electrically connected to the second heater supply lead, the first insulation layer having a recess in the region of the contact point (Col. 5, lines 57-59; 510, Figure 5).

Regarding claim 13, IMAMURA et al. teaches a carrier foil (81, Figure 8), at least one of the heater and the second heater supply lead being electrically insulated from the carrier foil by an insulation layer (82, Figure 8); wherein at least one of the heater and the first heater supply lead is electrically insulated from the measuring device by another insulating layer (84, Figure 8; Col. 9, line 57 – Col. 10, line 29).

Regarding claim 15, IMAMURA et al. teaches an insulation foil (51, Figure 4) being arranged between the first heater supply lead (552, Figure 4) and the second heater supply lead (551, Figure 4), wherein the heater is electrically connected to the first heater supply lead via a through-hole (510, Figure 5). The walls of the through-hole taught by INAMURA et al. would inherently have to be coated with a conductive material for the invention of INAMURA et al. to operate correctly.

Regarding claim 17 and 18, IMAMURA et al. teaches that the a heater supply lead is at a constant potential, in this case ground (Col. 6, lines 11-12), and to heat the sensor element, a potential of the other heater supply lead is configured to be modified by electrical circuit elements arranged outside of the sensor element, in the form a heater power supply (Col. 6, lines 12-20).

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Regarding claim 19, IMAMURA et al. teaches the measuring device includes at least one electrochemical cell having a first electrode (21, Figure 2), a second electrode (22, Figure 2) and a solid electrolyte, the solid electrolyte electrically connecting the first electrode and second electrode (13, Figure 2; Col. 4, lines 11-16).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 14, 16, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over IMAMURA et al. (US 6,338,782 B1) in view of DUCE et al. (International Publication WO 01/29546 A2), submitted to the Office on an information disclosure statement.

Regarding claim 14, IMAMURA et al. teaches the limitations of claim 11, as outlined in the above rejection. IMAMURA et al. also teaches that the heater and heater supply leads were formed by screen printing (Col. 8, lines 63-67).

IMAMURA et al. does not explicitly teach that the insulation layers are formed by screen printing.

However, DUCE et al. disclose a gas sensor, wherein is taught that the insulating layers of the device can be formed by a number of techniques, including screen printing (p. 7, lines 19-25).

At the time of the present invention, it would have been obvious to one of ordinary skill in the art to utilize the screen printing process applied to form the heater and heater supply leads, taught by IMAMURA et al., to additionally form the insulation layers, as taught by DUCE et al., because better compatibility results between the components when they are manufactured in the same manner.

Regarding claims 16 and 21, IMAMURA et al. teaches the limitations of claim 11, as outlined in the above rejection.

IMAMURA et al. does not teach a heater supply lead at least covers a full surface of the sensor element in at least one of a supply region and a region of the heater.

However, DUCE et al. teaches that electrolyte layers or protective layers can comprise an entire layer or any portion thereof; e.g., they can form the layer, be attached to the layer, or disposed an opening in the layer (p. 9, lines 10-15).

At the time of the present invention, it would have been obvious to one of ordinary skill that the teaching of DUCE et al. with regard to the electrolyte layers or protective layers can be extended to a heater supply lead as taught by IMAMURA et al., such that a heat supply lead can comprise an entire layer or any portion thereof; e.g., they can form the layer, be attached to the layer, or disposed an opening in the layer, because it would ensure contact between the heater and electrical power source. Additionally, if the heat supply lead comprises an entire layer, it would by default inherently have a perpendicular projection onto the stratification of the other heater supply lead to lie at least regionally on the other heater supply lead.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over IMAMURA et al. (US 6,338,782 B1) in view of MURASE et al. (US 4,882,947).

IMAMURA et al. teaches the limitations of claim 11, as outlined in the above rejection.

IMAMURA et al. does not teach where at least one of the first and second heater supply leads has a lattice structure.

MURASE et al. discloses a resistive heater for use with a gas sensor, wherein is taught that heat-generating conductors can form a grid or lattice (Col. 3, lines 11-18) and leads (8, Figure 1 & 3a-e).

At the time of the present invention, it would have been obvious to one of ordinary skill in the art to make the leads taught in MURASE et al. in a lattice form like the conductors also taught in MURASE et al. to be incorporated in the device as taught by IMAMURA et al. because if the lattice form would allow little heat to migrate down the leads, to where they are connected to an external device or circuit (MURASE et al., Col. 11, lines 11-21).

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. CHRISTOPHER BALL, Ph.D. whose telephone number is (571)270-5119. The examiner can normally be reached on Monday through Thursday, 8:00 am to 5:00 pm (EDT).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JCB

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06/30/2008

/PATRICK RYAN/

Supervisory Patent Examiner, Art Unit 1795